

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-12629-RWZ

USGEN NEW ENGLAND, INC., a
Subsidiary of NATIONAL ENERGY &
GAS & GAS TRANSMISSION, INC.,
f/k/a PG&E NATIONAL ENERGY
GROUP, INC.,

Plaintiff,

v.

BENTLY NEVADA, LLC, f/k/a BENTLY
NEVADA CORPORATION, LLC and
BENTLY PRESSURIZED BEARING
COMPANY, f/k/a BENTLY NEVADA
CORPORATION,

Defendants

**ANSWER AND AFFIRMATIVE
DEFENSES OF BENTLY NEVADA LLC**

The Defendant, Bently Nevada, LLC, f/k/a Bently Nevada Corporation, LLC ("Bently Nevada"), hereby responds to the numbered paragraphs of the Complaint of USGEN New England, Inc., a subsidiary of National Energy & Gas & Gas Transmission, Inc., f/k/a PG&E National Energy Group (the "Plaintiff"), as follows:

INTRODUCTION

1. Bently Nevada states that Paragraph 1 of the Complaint contains a conclusion of law to which no response is required. Further answering, Bently Nevada is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 1 of the Complaint and, therefore, denies same.

PARTIES

2. Bently Nevada is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 2 of the Complaint and, therefore, denies same.

3. Bently Nevada denies the allegations contained in Paragraph 3 of the Complaint.
4. Bently Nevada admits the allegations contained in Paragraph 4 of the Complaint.

VENUE AND JURISDICTION

5. Bently Nevada denies the allegations contained in Paragraph 5 of the Complaint.
6. Bently Nevada denies the allegations contained in Paragraph 6 of the Complaint.

Further answering, Bently Nevada states that venue is proper in this District Court pursuant to 28 U.S.C. §1441(a) because this District and Division embrace Essex County, Massachusetts where this case was pending prior to removal.

FACTUAL ALLEGATIONS

7. Bently Nevada is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 7 of the Complaint and, therefore, denies same.

8. Bently Nevada denies the allegations contained in Paragraph 8 of the Complaint.

9. Bently Nevada denies the allegations contained in Paragraph 9 of the Complaint.

10. Bently Nevada denies the allegations contained in Paragraph 10 of the Complaint.

11. Bently Nevada admits the first sentence of Paragraph 11 of the Complaint and denies the allegations contained in the remainder of Paragraph 11 of the Complaint.

12. Bently Nevada is without knowledge or information sufficient to form a belief as to the allegations contained in the first sentence of Paragraph 12 of the Complaint and, therefore, denies same. Bently Nevada denies the allegations contained in the remainder of Paragraph 12 of the Complaint.

13. Bently Nevada is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 13 of the Complaint and, therefore, denies same.

14. Bently Nevada is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 14 of the Complaint and, therefore, denies same.

15. Bently Nevada is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 15 of the Complaint and, therefore, denies same.

16. Bently Nevada is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 16 of the Complaint and, therefore, denies same.

17. Bently Nevada is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 17 of the Complaint and, therefore, denies same.

18. Bently Nevada is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 18 of the Complaint.

19. Bently Nevada denies the allegations contained in Paragraph 19 of the Complaint.

COUNT 1

20. Bently Nevada restates, realleges and incorporates herein by reference the previous paragraphs 1-19 of this Answer.

21. Bently Nevada denies the allegations contained in Paragraph 21 of the Complaint.

22. Bently Nevada denies the allegations contained in Paragraph 22 of the Complaint.

23. Bently Nevada denies the allegations contained in Paragraph 23 of the Complaint.

24. Bently Nevada denies the allegations contained in Paragraph 24 of the Complaint.

COUNT 2

25. Bently Nevada restates, realleges and incorporates herein by reference the previous paragraphs 1-24 of this Answer.

26. Bently Nevada denies the allegations contained in Paragraph 26 of the Complaint.

27. Bently Nevada denies the allegations contained in Paragraph 27 of the Complaint.

28. Bently Nevada denies the allegations contained in Paragraph 28 of the Complaint.

COUNT 3

29. Bently Nevada restates, realleges and incorporates herein by reference the previous paragraphs 1-28 of this Answer.

30. Bently Pressurized states that Paragraph 30 of the Complaint contains conclusions of law to which no response is required. Further answering, Bently Nevada denies the allegations contained in Paragraph 30 of the Complaint.

31. Bently Nevada denies the allegations contained in Paragraph 31 of the Complaint.

COUNT 4

32. Bently Nevada restates, realleges and incorporates herein by reference the previous paragraphs 1-31 of this Answer.

33. Bently Nevada denies the allegations contained in Paragraph 33 of the Complaint.

34. Bently Nevada denies the allegations contained in Paragraph 34 of the Complaint.

35. Bently Nevada denies the allegations contained in Paragraph 35 of the Complaint.

36. Bently Nevada denies the allegations contained in Paragraph 36 of the Complaint.

37. Bently Nevada denies the allegations contained in Paragraph 37 of the Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against Bently Nevada upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Plaintiff, by its acts and conduct, is estopped from asserting and/or has waived its claims against Bently Nevada.

THIRD AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by its unclean hands.

FOURTH AFFIRMATIVE DEFENSE

The Plaintiff has failed to mitigate its alleged damages.

FIFTH AFFIRMATIVE DEFENSE

The Plaintiff has not sustained any cognizable damage for which Bently Nevada is responsible.

SIXTH AFFIRMATIVE DEFENSE

The Plaintiff has misnamed Bently Nevada as a Defendant in this matter, and therefore, the Complaint should be dismissed in its entirety as to Bently Nevada.

SEVENTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred, in whole or in part, by its own acts, or failure to act, in a reasonably prudent manner under the circumstances.

EIGHTH AFFIRMATIVE DEFENSE

If the Plaintiff proves that it sustained injuries as alleged in the Complaint, the same were in no way caused by Bently Nevada, or anyone acting with, through, for or under Bently Nevada, or by anyone for whose negligence Bently Nevada may be held legally responsible or answerable.

NINTH AFFIRMATIVE DEFENSE

Bently Nevada states that if it were negligent or liable, which liability and negligence it expressly denies, Bently Nevada's liability in any or all of the events was terminated by the intervening negligence or acts of others for whose conduct Bently Nevada cannot be held legally responsible or answerable.

TENTH AFFIRMATIVE DEFENSE

The Plaintiff was not exercising due care when the alleged damage occurred, and the negligence of the Plaintiff caused the damages of which the Plaintiff now complains, and in accordance with Mass. Gen. L. c. 231, §85, the Plaintiff is barred from any recovery against Bently Nevada.

ELEVENTH AFFIRMATIVE DEFENSE

Bently Nevada states that if it should be found negligent, which negligence it expressly denies, that the negligence of the Plaintiff exceeds Bently Nevada's alleged negligence, and the recovery to the Plaintiff must be reduced by the percentage of the negligence attributable to the Plaintiff in accordance with Mass. Gen. L. c. 231, §85.

TWELFTH AFFIRMATIVE DEFENSE

Bently Nevada states that, to the extent that it had any obligations to the Plaintiff, such obligations have been fully, completely, and properly performed in every respect.

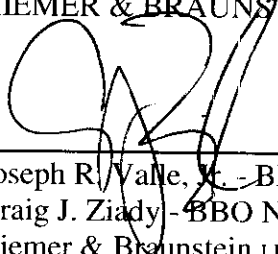
JURY CLAIM

The Defendant, Bently Nevada, LLC, f/k/a Bently Nevada Corporation, LLC, hereby demands a trial by jury on all issues.

BENTLY NEVADA, LLC, f/k/a BENTLY
NEVADA CORPORATION, LLC,

By its Attorneys,
RIEMER & BRAUNSTEIN LLP

Dated: December 12, 2004



Joseph R. Valle, Jr. - BBO No. 550291
Craig J. Ziady - BBO No. 565216
Riemer & Braunstein LLP
Three Center Plaza
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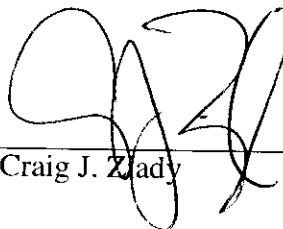
Defendants

CERTIFICATE OF SERVICE

I, Craig J. Ziady, hereby certify that on this date, December 22, 2004, I served the foregoing Answer by causing a copy of same to be delivered by first-class mail, postage prepaid, unless otherwise indicated, to:

Brook F. Minx, Esquire
William T. Sebesta, Esquire
Donato, Minx & Brown
3200 Southwest Freeway
Suite 2310
Houston, TX 77027

Kathleen A. Kelley, Esquire (by hand)
Hare & Chaffin
160 Federal Street
Boston, MA 02110


Craig J. Ziady

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